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OFFICE OF THE ATTORNEY GENERAL



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Representative Jack Biddle, III
District No. 35
House of Representatives
Montgomery, Alabama 36130

Libraries; Education, Department of; Appropriations; Funds

Pursuant to the General Fund Budget, Ala. Act No. 82-569 the funds for Library Instructional Materials are appropriated to the Department of Education, which is then responsible for distribution to the recipient schools.

Dear Representative Biddle:

In your letter of January 6, 1983, you ask the opinion of the Attorney General regarding the General Fund Budget, Ala. Act No. 82-569, and an amendment providing for library instructional matters to public schools.

Specifically you pose three questions and the first question asks as follows:

"1. Under Act 82-569, should this money be appropriated to the State Board of Education for the purposes of library instructional materials or should it be appropriated to the Special Education Trust Fund?"

The answer to your first question is that this money is appropriated to the State Board of Education not to the Special Education Trust Fund.

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The General Fund Budget Act provides as follows:

"Section 1. The monies in Section 2 are appropriated from the named funds for the 1982-83 fiscal year to the state agency indicated." (Emphasis added.)

The appropriation about which you are inquiring is found in Section 2C, Item 107. It appears as follows:

FUND SOURCES INCLUDED
IN APPROPRIATION TOTAL

*GENERAL FUND	TRUST FUNDS	APPROPRIA- TION TOTAL
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107. STATE DEPARTMENT OF
EDUCATION:

(a) Library Instruc- tional Materials:	2,494,131
To be distributed to all public ele- mentary and sec- ondary schools and all two-year post- secondary insti- tutions under jurisdiction of the State Board of Education by an equal amount per student enrolled.	
SOURCE OF FUNDS:*	
(1) *State General Fund.....	*2,494,131 . . .
Total State Dept. of Education.....	2,494,131 2,494,131

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A reading of this item shows that the source of funds is the General Fund. (See the asterisks). It also shows on the first line of Item 107 that the agency indicated to receive the funds is the State Department of Education. Section 1 of the Act clearly states that the funds are appropriated to the agency indicated. Since the only indicated agency is the State Department of Education and since there is no mention in Item 107 of an appropriation to the Special Education Trust Fund, it is the opinion of the Attorney General that the money should be appropriated to the State Board of Education.

Your second question is as follows:

"2. If this money is deposited into the Special Education Trust Fund from the General Fund for the purposes of library materials, is the appropriation subjected to double proration?"

Since it is the opinion of the Attorney General that the money in question is not appropriated to the Special Education Trust Fund, no answer to your second question is needed.

Your third question is as follows:

"3. What point in time is the money to be distributed for library instructional materials and from whom is it to be distributed?"

The money should be distributed from the agency to which the appropriation is made. That agency is, of course, the State Department of Education. The question of when the Department should distribute the funds is not governed by the General Fund Budget. As a practical matter the distribution of funds is governed by when an allotment is made available to the Department of Education. Once an allotment is available, the Department of Education is contacted. The Department in turn sends the necessary data to the Comptroller so that he can cut checks in appropriate amounts to various

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recipient schools. These checks are then sent to the Department which mails the checks to the schools. It should be noted that allotments can be made for a period of no more than three months (quarterly allotments). Code of Alabama 1975 §41-4-91.

I hope this opinion is responsive to your request and if this office can be of future assistance, please contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General
BY:

A handwritten signature in cursive script, reading "Sarah M. Spratling".

SARAH M. SPRATLING
Assistant Attorney General

SMS/dn